



4310-GG

## **DEPARTMENT OF THE INTERIOR**

### **Bureau of Land Management**

**[13X LLIDB00100 LF1000000.HT0000 LXSS020D0000 4500048111]**

### **Notice of Proposed Supplementary Rules for the Cove Recreation Site, Owyhee County, ID**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Land Management (BLM) is proposing supplementary rules for public use of the campground and day use areas at Cove Recreation Site, located along C.J. Strike Reservoir in the Morley Nelson Snake River Birds of Prey National Conservation Area (NCA) in Owyhee County, Idaho. These supplementary rules are compatible and consistent with the September 2008 Record of Decision (ROD) for the NCA's resource management plan (RMP).

**DATES:** Interested parties may submit written comments on the proposed supplementary rules until [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments by mail, electronic mail, or hand delivery.

Mail or Hand Delivery: Bureau of Land Management, Four Rivers Field Office, 3948 S.

Development Avenue, Boise, ID 83705. Electronic mail:

[blm\\_id\\_cove\\_rec\\_rules@blm.gov](mailto:blm_id_cove_rec_rules@blm.gov).

**FOR FURTHER INFORMATION CONTACT:** Jared Fluckiger, Outdoor Recreation Planner, Bureau of Land Management, Four Rivers Field Office, 3948 S. Development Avenue, Boise, ID 83705, telephone 208-384-3342. Persons who use a

telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during normal business hours (8:00 am - 4:30 pm). You will receive a reply during normal business hours.

## **SUPPLEMENTARY INFORMATION:**

### **I. Public Comment Procedures**

You may mail, email, or hand-deliver comments to Jared Fluckiger, at the address listed above (See “ADDRESSES”). Written comments on the proposed supplementary rules should be specific and confined to issues pertinent to the proposed rules, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal that the commenter is addressing. The BLM is not obligated to consider, or include in the Administrative Record for the final supplementary rules, comments delivered to an address other than those listed above (See “ADDRESSES”) or comments that the BLM receives after the close of the comment period (See “DATES”), unless they are postmarked or electronically dated before the deadline.

Comments including names, street addresses, and other contact information for respondents, will be available for public review at the BLM Boise District Office location listed in “ADDRESSES” during regular business hours (8 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays). Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your comment—including your personal identifying information—may be made publicly available at any time. While you can request that BLM withhold your personal

identifying information from public review, we cannot guarantee that we will be able to do so.

## II. Background

The 160-acre Cove Recreation Site is a 29-unit campground and day-use site located along C.J. Strike Reservoir, about 35 miles southwest of Mountain Home in southwestern Idaho. The site provides opportunities to fish, hike, view wildlife, boat (motorized and non-motorized), waterski, swim, camp, and picnic.

There are no proposed changes to Cove Recreation Site user fees, which were established in 2007 under the Recreation Fee Demonstration Program. The proposed supplementary rules would help the BLM achieve management objectives for the Snake River Birds of Prey NCA, which include restoring and rehabilitating non-shrub areas, and improving raptor and raptor prey habitat, while imposing only moderate restrictions on recreation. They would also provide the BLM with the enforcement tools needed to enhance public health and safety and help prevent damage to natural and cultural resources.

## III. Discussion of the Proposed Supplementary Rules

The BLM published proposed supplementary rules for the Cove Recreation Site in the Federal Register on August 10, 2005 (70 FR 46538), but these were never finalized. The proposed rules in this notice include the earlier rules, which were not finalized, and four additional proposed site management rules. The earlier proposed rules included camping protocols such as check out times, approved camping sites, camp quiet hours, and fee payment procedures. These proposed rules would also limit the number of individuals allowed on campsites (6 for a single site, 10 for a double site, 14 for a triple site); restrict the use of off-highway vehicles (OHV) within the campground; prohibit dumping

graywater or blackwater anywhere other than in an approved area; and prohibit the use or discharge of paintball equipment in the campground or day-use areas.

These proposed supplementary rules would help the BLM achieve management objectives for the NCA and implement the decision associated with the 2003 environmental assessment (EA) for Reconstruction of the Cove Recreation Site, C. J. Strike Reservoir, 2003 EA No. ID 090 03 022 (2003 EA). These supplementary rules are compatible and consistent with the ROD for the NCA's RMP. The proposed supplementary rules would also provide the BLM with the enforcement tools needed to help prevent damage to natural and cultural resources and provide for public health and safety.

#### IV. Procedural Matters

##### Executive Order 12866, Regulatory Planning and Review

The proposed supplementary rules are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. The proposed supplementary rules would not have an effect of \$100 million or more on the economy. They would not adversely affect, in a material way, the economy; productivity; competition; jobs; environment; public health or safety; or State, local or tribal governments or communities. The proposed supplementary rules would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. They do not materially alter the budgetary effects of entitlements, grants, or loan programs or the right or obligations of their recipients; nor do they raise novel legal or policy issues. The proposed rules merely impose rules of conduct for public use of a

limited selection of public lands and provide greater consistency with the Idaho State Code to protect public health and safety.

#### Clarity of the Supplementary Rules

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. The BLM invites your comments on how to make these proposed supplementary rules easier to understand, including answers to questions such as the following:

- (1) Are requirements in the proposed supplementary rules clearly stated?
- (2) Do the proposed supplementary rules contain technical language or jargon that interferes with their clarity?
- (3) Does the format of the proposed supplementary rules aid or reduce their clarity?
- (4) Would the proposed supplementary rules be easier to understand if they were divided into more (but shorter) sections?
- (5) Is the description of the proposed supplementary rules in SUPPLEMENTARY INFORMATION section helpful to your understanding of the proposed supplementary rules? How could this description be more helpful in making the proposed supplementary rules easier to understand?

Please send any comments you have on the clarity of the proposed supplementary rules to the address specified in the ADDRESSES section.

#### National Environmental Policy Act (NEPA)

The BLM prepared the 2003 EA to evaluate the environmental effects of the reconstruction of the Cove Recreation Site. These proposed supplementary rules are designed to mitigate issues discussed in the 2003 EA. This action is strictly procedural

and is therefore categorically excluded pursuant to 516 DM 2, Appendix 1.10. There are no extraordinary circumstances that would present potentially significant effects to the environment.

The BLM has noted an increasing network of trails throughout the NCA due to widespread OHV use throughout the area. The 2003 EA states that the ground surrounding the structures on the site is disturbed and highly compacted from historic and heavy unrestricted vehicle traffic. As a result, soil erosion is a concern at the Cove Recreation Site, particularly on the east side of the inlet. The associated impacts to vegetation, water quality, and public health are also a concern. Uncontrolled OHV activity impacts wildlife populations (including raptors) and their habitats, and can adversely impact other recreational uses. The proposed supplementary rules are designed to mitigate:

1. OHV impacts to wildlife, soils and vegetation;
2. User conflicts (noise, pets, weapons, vehicle speeding, etc.); and
3. Human-caused wildfires.

OHV impacts and user conflicts are described in the decision record for the 2003 EA, which is available for review in the BLM administrative record at the address specified in the ADDRESSES section.

The impacts from human-caused wildfires are described in the ROD for the 2008 Snake River Birds of Prey National Conservation Area RMP EIS. The ROD for the RMP EIS was signed by the BLM Idaho State Director on September 30, 2008. The ROD is available for review in the BLM administrative record at the address specified in the ADDRESSES section and online at:

<https://www.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage&currentPageId=46154>

The issues that form the basis of these supplementary rules were analyzed in the 2003 EA for reconstruction of the site. The proposed rules are also compatible and consistent with the 2008 ROD for the NCA's RMP and also provide for enforcement.

The BLM found that the proposed supplementary rules would not constitute a major Federal action significantly affecting the quality of the human environment under NEPA section 102(2)(C), 42 U.S.C. 4332(2)(C).

#### Regulatory Flexibility Act of 1980

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601-612, to ensure Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These proposed supplementary rules merely establish rules of conduct for public use of a limited area of public lands and should have no effect on business entities of any size. Therefore, the BLM has determined, under the RFA, that they would have no significant economic impact on a substantial number of small entities.

#### Small Business Regulatory Enforcement Fairness Act

These proposed supplementary rules merely establish rules of conduct for public use of a limited area of public lands and do not affect commercial or business activities of any kind. Thus, the rules do not constitute a "major rule" as defined at 5 U.S.C. 804(2). They

would not result in an effect on the economy of \$100 million or more, an increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

#### Unfunded Mandates Reform Act

These proposed supplementary rules would not impose an unfunded mandate on State, local or tribal governments in the aggregate or the private sector of more than \$100 million per year, nor would they have a significant or unique effect on State, local, or tribal governments or the private sector. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.)

#### Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

These proposed supplementary rules would not have significant takings implications, nor would they be capable of interfering with constitutionally protected property rights. Therefore, the BLM has determined these rules will not cause a “taking” of private property or require preparation of a takings assessment.

#### Executive Order 13132, Federalism

The proposed supplementary rules would not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. The proposed supplementary rules would not conflict with any Idaho state law or regulation. Therefore, in accordance with Executive Order 13132, the BLM has determined these



proposed supplementary rules would not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

#### Executive Order 12988, Civil Justice Reform

The BLM has determined these proposed supplementary rules would not unduly burden the judicial system and they meet the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

#### Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

The BLM has found these supplementary rules do not include policies having tribal implications.

#### Executive Order 13352, Facilitation of Cooperative Conservation

In accordance with Executive Order 13352, the BLM has determined that the proposed supplementary rules would not impede facilitating cooperative conservation; would take appropriate account of and consider the interests of persons with ownership or other legally recognized interests in land or other natural resources; would properly accommodate local participation in the Federal decision-making process; and would provide that the programs, projects, and activities are consistent with protecting public health and safety.

#### Information Quality Act

The Information Quality Act (Section 515 of Pub. L. 106-554) requires Federal agencies to maintain adequate quality, objectivity, utility, and integrity of the information they disseminate. In developing these supplementary rules, the BLM did not conduct or use a study, experiment, or survey, or disseminate any information to the public.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

These proposed supplementary rules would not constitute a significant energy action.

The proposed supplementary rules would not have an adverse effect on energy supplies, production, or consumption, and have no connection with energy policy.

Paperwork Reduction Act

These proposed supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq.

**AUTHOR:** The principal author of these supplementary rules is Jared Fluckiger, NCA Outdoor Recreation Planner.

For the reasons stated in the preamble, and under the authority of 43 CFR 8365.1-6, the BLM proposes to issue supplementary rules for BLM-managed public lands at the Cove Recreation Site, to read as follows:

SUPPLEMENTARY RULES FOR THE COVE RECREATION SITE

Definitions

Blackwater means water that contains animal, human, or food waste.

Graywater means wastewater drained from sinks, tubs, showers, dishwashers, clothes washers, and other non-toilet sources.

Off-highway vehicle (OHV) For the purpose of these supplementary rules, the following are included within the definition of OHV (taken from Idaho Code 67-7101 (2010)):

- "All-terrain vehicle" or "ATV" means any recreation vehicle that has 3 or more tires and measures 50 inches or less in width, having a wheelbase of 61 inches or

less, having handlebar steering and a seat designed to be straddled by the operator.

- “Motorbike” means any self-propelled two-wheeled motorcycle or motor-driven cycle, excluding tractor, designed for or capable of traveling off developed roadways and highways and also referred to as trailbikes, enduro bikes, trials bikes, motocross bikes, or dual purpose motorcycles.
- “Specialty off-highway vehicle” means any vehicle manufactured, designed or constructed exclusively for off-highway operation that does not fit the definition of an all-terrain vehicle, utility type vehicle, or motorbike as defined in this section.
- “Utility type vehicle” or “UTV” means any recreational motor vehicle other than an ATV, motorbike or snowmobile as defined in this section, designed for and capable of travel over designated roads, traveling on 4 or more tires, maximum width less than 74 inches, maximum weight less than 2,000 pounds, and having a wheelbase of 110 inches or less. A utility type vehicle must have a minimum width of 50 inches, a minimum weight of at least 900 pounds or a wheelbase of over 61 inches. This does not include golf carts, vehicles specially designed to carry a disabled person, or implements of husbandry. A “utility type vehicle” or “UTV” also means a recreational OHV, or recreational off-highway vehicle.
- For the purpose of these supplementary rules, OHVs include any ATV, motorbike, specialty vehicle or UTV not licensed for highway use (not street legal).

On BLM-administered public land within the Cove Recreation Site, you must comply with the following supplementary rules:

1. User fees must be paid within one hour of arrival to the campground for overnight use and must be paid immediately upon arrival for day use. Fees must be paid at the self-service pay stations located in the campground and day-use areas. Golden Age or Golden Access Passport holders are entitled to a 50 percent fee reduction.
2. Fees for overnight camping permit two vehicles per numbered campsite. Additional vehicles will be charged an extra fee per day.
3. Camping is permitted at developed (numbered) sites only.
4. The maximum number of persons allowed on campsites is 6 for a single site, 10 for a double site, and 14 for a triple site.
5. Checkout time for overnight users is 2:00 p.m.
6. Cross-country vehicle travel within the campground is not allowed.
7. Off-highway vehicles (OHV), as defined above may not be used within the campground.
8. Vehicles and camping gear must not be left unattended in the recreation site for longer than 24 hours.
9. Quiet hours are established from 10:00 p.m. to 6:00 a.m. No loud talking, loud music, barking dogs, operation of generators, or other disturbing activities are permitted in the campground during these hours.
10. Campfires are permitted in agency-provided fire rings and grills only.
11. Cutting or collecting firewood of any kind is prohibited, including dead and down wood or other vegetative material.

12. All trash, garbage, waste, or pet fecal material must be immediately removed and disposed of in a sanitary manner. All persons must keep their sites free of trash and litter during the period of occupancy.

13. Dumping of graywater or blackwater is prohibited anywhere other than in an approved area.

14. Maximum length of stay in the campground is 14 consecutive days.

15. Paintball equipment must not be used or discharged in the campground or day-use areas.

**Exemptions:** Any Federal, State, local, and/or military employee acting within the scope of their duties; members of any organized rescue or fire-fighting force performing an official duty; and persons, agencies, municipalities or companies holding an existing special use permit and operating within the scope of their permit.

**PENALTIES:** On public lands under Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) and 43 CFR 8360.0-7, any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined no more than \$1,000 or imprisoned for no more than 12 months, or both. Such violations may also be subject to enhanced fines provided for by 18 U.S.C. 3571.

Timothy M. Murphy,

Acting BLM Idaho State Director.

Authority: 43 CFR 8365.1-6

[FR Doc. 2014-14832 Filed 06/24/2014 at 8:45 am; Publication Date: 06/25/2014]